

## **Advocating for Women's Voice in Transitional Justice Processes**

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Political transitions provide an extraordinary window of opportunity for enhancing women's access to justice, reclaiming public space as well as building momentum for fundamental reforms. We note, however, the existence of the under-representation of women in peace negotiations and peace processes. For International Center for Policy and Conflict, this is not just a matter of how many women are included in peace negotiations but how substantively women are able to participate, and what difference such participation makes. We believe that with women's full and equal participation, conflict resolution, peacebuilding and all peace processes are more likely to succeed. However, women's meaningful engagement in such processes will not happen if we do not focus on creating an enabling environment for it to become a reality.

Women's experience of political violence continues to be largely neglected in transitional justice mechanisms. The process of systematic exclusion of women does not begin at the site of trials, truth commissions, institutional reforms, reparations but from the decision of whether to pursue peace or justice in the aftermath of conflict. Despite a relatively minor focus by most actors in the peace process, transitional justice and reconciliation are fundamental to the success of all aspects of post-conflict reconstruction. Transitional justice is of particular concern to women, given widespread acts of sexual and gender-based violence committed in conflict time. In addition to the need for justice, many women are key actors in conducting healing and reconciliation processes, noting their concern for their children's future as a strong motivating factor.

Gender-sensitive transitional justice mechanisms are an integral element of effective peace processes and a necessary component of state-building in post-conflict situations. When women are able to participate in peace processes, the development of such systems is one of the priority concerns they raise. A gender-responsive justice system helps to break the continuing cycle of violence against women, and ensure their meaningful participation not only in peace negotiations but in rebuilding their communities and in transforming their societies.

Lessons from other countries have demonstrated the critical importance of integrating not only a gender analysis in the understanding of crimes committed against women, but also responding to feminist criticism to the conceptual and tactical exclusion of women in the entire process of transitional justice. Transitional justice mechanisms are so preoccupied with how to elicit the sexual crimes perpetrated that they reduce the role of women to passive victims, neglecting the active roles they play. When women's voices are heard, care should be taken to hear them in a comprehensive way that records the full range of women's experiences, not reduces them simply to passive victims.

It is recognized that as survivors of conflict, women also bear the burden of reconstructing their destroyed communities and repairing relationships. Women are contributing to all four pillars of post-conflict reconstruction namely security, governance, justice and reconciliation, and socio-economic development. Indeed, their leadership in the transitional period can serve as a "window of opportunity" to empower women, promote gender equality, and advance women's position in society.

Far too often, truth commission mandates, judicial processes and policy proposals for reparations have been pursued, interpreted and implemented with little regard for the distinct and complex injuries women have experienced. Furthermore, the absence of women from transitional justice mechanisms reinforces their marginalized position in negotiating with the state and legal norms on issues of

accountability. Though important, appointment of large number of women to transitional justice mechanisms is not as significant as influencing the processes and their outcomes.

We are inviting the Kenyan society to take deeper look into the politics of reconciliation and how it undermines or propagates the demands of women survivors' and where the space has been created to recognize them. Given the climate of impunity and the policy of national reconciliation being pursued in Kenya, this assessment should attempt to understand the extent to which the rights and of women survivors are undermined in the process of seeking peace and where the space could be created for a more nuanced understanding of justice and accountability.

We at the International Center for Policy and Conflict strongly urge that transitional justice moment is a time to embed equality for women and accountability for gender based crimes and this cannot be achieved if there has been no parity enforcement. Violence against women is a continuum of acts that violate women's basic human rights, and that this violence occurs before, during and after conflict. Equality has to be a premise to democracy and the rule of law. Women's parity in the judiciary is a challenge that needs to be met. It was stressed that impunity denies the fundamental principle of equality under the law.

Economic and social justice is an integral part of the transitional justice processes in restoring women's rights and dignity and the underlying gender bias in societies needs to be urgently addressed in order to prevent gender violence. Only through the broad involvement of all levels of society will there be a wide-ranging commitment to justice for women. Local and international actors need to work hand-in-hand to ensure continued support for women victims of gender based violence before, during and after conflict.

Using the current transitional justice frameworks as entry-points, International Center for Policy and conflict will deepen policymakers' understanding of the practical challenges women face, particularly the most disadvantaged, in both articulating and addressing their specific concerns. Lessons learned throughout transitional justice would further 'unpack' key gender-sensitive peacebuilding, incorporating and addressing both women's and men's needs, priorities and roles in conflict-affected contexts. The mechanisms outcomes will fill existing gaps on gender issues. It will assist policymakers and civil society organisations to build on existing local initiatives and take a more joined-up, targeted and coherent approach to the gender dimensions of peacebuilding.

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